

Application No. 10/700,239
Response dated February 24, 2005
Reply to Office Action of January 25, 2005

REMARKS

In response to the Office Action of January 26, 2005, Applicant provisionally elects, with traverse, Group I, claims 1-19 and 21-25, drawn to a method for detecting the presence, absence or quantity of a segmented negative strand RNA virus in a biological sample where a transgenic detecting cell contains a recombinant nucleic acid molecule, classified in class 435, subclass 5.

Applicant requests that Claim 20, as amended, be added to Group I; and that Claims 41 (as amended) and 42 be added to Group III. In addition, applicant notes the cancellation of claim 74 without prejudice or waiver, and the correction of the scrivener error regarding numbering of claim 88 in the present set of claims, as amended.

Claim Amendments

With the present response, Applicant has amended claims 20, 73, and 77-94. The amendments all correct scrivener errors regarding claim numbers and/or claim dependency. No new matter has been added.

Grouping of Claims

The PTO has characterized Groups I and IV, as related as product and process of use. The PTO asserts that the inventions can be shown to be distinct, because (1) the process for using the product as claimed can be practiced with another materially different product, or (2) the product as claimed can be used in a materially different process of using the product (MPEP § 806.05(h)), and that in the present case, the kit claimed in Group IV can be used to screen for compounds that inhibit the activity of RNA-dependent RNA polymerase, in addition to the claimed use in the detection of a segmented negative strand RNA virus.

The PTO has also characterized the inventions of Groups I-III and V (presumably referring to Group VII as set forth on Page 2 of the present Office Action) as all representing different methods that utilize different reagents, have different method steps, and/or achieve different goals. The PTO further asserts that references that teach one method would not necessarily disclose the other methods.

Applicant respectfully traverses the restriction of the claims by the PTO, because if a search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. MPEP § 803. In the present case, search and examination of the entire

Application No. **10/700,239**

Response dated **February 24, 2005**

Reply to Office Action of **January 25, 2005**

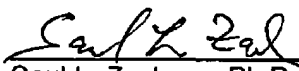
application can be made without serious burden, because the PTO has classified all the claims in the same class (435) and the same subclass (5). In this connection, the claims of all the groups utilize or comprise many of the same or similar components, such as a cell or cell population comprising a recombinant nucleic acid comprising a reporter gene in which expression depends upon the presence in a host cell of an RNA-dependent RNA polymerase of a segmented negative strand RNA virus, or and/or use similar methods. For example, methods of detecting the presence, absence, or quantity of a segmented negative strand RNA virus of Group I share many common features with both the methods of determining a differential diagnosis of an infection of an influenza virus of Group II, as well as the methods of detecting the presence, absence, or quantity of a first and a second segmented negative strand RNA virus of Group III. Accordingly, no serious burden to the PTO would arise from examination of the entire application, and applicant, therefore, requests that the Restriction Requirement be withdrawn.

Application No. **10/700,239**
Response dated **February 24, 2005**
Reply to Office Action of **January 25, 2005**

CONCLUSION

As it is believed the application is in a condition for allowance, prompt and favorable consideration of this application or Notice of Allowance is respectfully requested. Applicants believe that there no fee due at this time. If this is determined to be inaccurate, any deficiency may be charged to Deposit Account No. 19-3140.

Respectfully submitted,


Saul L. Jackson, Ph.D.
Reg. No. 52,391
Customer No. 26263
314.259.5802

Via Facsimile to: 703-872-9306